

CERTIFIED TRUE COPY

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Division of Law - 5th Floor
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

FILED

JAN 12 2006

By: Michelle Weiner
Deputy Attorney General
Tel. No. (973) 648-3696

BOARD OF PHARMACY

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHARMACY

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

Administrative Action

THOMAS M. CLANCY, R.P.

CONSENT ORDER

TO PRACTICE PHARMACY IN THE
STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Pharmacy upon a request for reinstatement by respondent. Respondent had entered into a Consent Order with the Board of Pharmacy on September 13, 2004, whereby he agreed to the voluntary surrender of his pharmacy license based on allegations that he had diverted Methadone, a Schedule II Controlled Dangerous Substance from his part-time workplace, Boyt Drugs, in Metuchen, New Jersey, for his own consumption. Respondent has now applied for reinstatement of his license.

It appearing that respondent completed an in-patient program at Clear Brook Manor on August 12, 2004 and an outpatient treatment program at Treatment Dynamics on December 7, 2004; that

upon application of the Pretrial Intervention Program, the criminal complaint against him was dismissed, pursuant to Rule 3:28 on September 9, 2005; and the PAP having represented that respondent continues to comply with the monitoring program that it established for him, including that all results of random urine testing at a frequency of twice weekly have been reported as "negative" for the unauthorized use of any psychoactive substances, including alcohol; and it further appearing that respondent wishes to resolve this matter without the necessity of further formal proceedings, and the Board finding the within Order sufficiently protective of the public health, safety and welfare and for good cause shown;

ACCORDINGLY, IT IS on this 11th day of January, 2006

ORDERED AND AGREED:

1. Respondent's license is hereby reinstated, subject to the following conditions:

a. Respondent shall abstain from the use of alcohol and all psychoactive substances, except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause in his own treatment. In addition, respondent shall advise any and all treating physicians and/or dentists of his history of substance abuse. Respondent shall cause any physician or dentist who prescribes medication for him which is a psychoactive substance to provide a written report to the Board and the Medical Director of the PAP, together with patient records indicating the need for such medication. Such report shall be

provided to the Board no later than two (2) days subsequent to the prescription, in order to avoid confusion which may be caused by a confirmed positive urine test as a result of such medication.

b. Respondent shall undergo random urine monitoring a minimum of two (2) times per week at a laboratory facility approved by the Board for the first six months of his return to practice and then a minimum of one (1) time per week for the next six months. Subsequent urine screens are to be conducted at a frequency commensurate with respondent's stage of recovery at the discretion of the Executive Medical Director of the PAP, with notification to the Executive Director of the State Board of Pharmacy. The urine monitoring shall be conducted with direct witnessing of the taking of the samples as designed by the laboratory facility. The initial drug screen shall utilize appropriate screening techniques and all confirming tests and/or secondary tests will be performed by gas/chromatography/mass spectrometry (G.C./M.S.). The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge.

c. All test results, including any secondary test results, shall be provided directly to Joanne Boyer, Executive Director of the Board, or her designee in the event she is unavailable. The Board also will retain sole discretion to modify the manner of testing in the event technical developments or individual requirements indicate that a different methodology or

approach is required in order to guarantee the accuracy and reliability of the testing.

d. Any failure by respondent to submit to or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from Joanne Boyer, or her designee. In addition, respondent must provide the Board with written substantiation of his inability to appear for a test within two (2) days, e.g., a physician's report attesting that he was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility," as employed in this provision, shall mean an obstacle beyond the control of respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day.

e. In the event respondent will be out of the state for any reason, the Board shall be so advised so that arrangements may be made at the Board's discretion for alternate testing. The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

f. Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.009 shall create a rebuttable presumption of a confirmed positive urine test. Such

specimen shall be immediately subjected to the confirming G.C./M.S. test.

g. Respondent shall familiarize himself with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

h. Respondent shall continue his participation with the PAP and shall have monthly "face-to-face" contacts with representatives from that program for the first six months of his licensure reinstatement and then at a frequency the PAP determines is commensurate with his duration in recovery. Respondent shall comply with aftercare, as directed by the PAP, and shall comply with any recommended therapeutic regimen for treatment or counseling.

i. Respondent shall attend support groups, including NA or AA, not less than three (3) times per week. Respondent shall provide evidence of attendance at such groups directly to the Board. If respondent discontinues attendance at any of the support groups without obtaining approval of the Board, he shall be deemed in violation of this Order.

j. Respondent shall undergo the observed administration of Naltrexone for the first six months of his re-entry into

pharmacy practice. Continued use thereafter is to be determined by the Executive Medical Director of the PAP.

k. The PAP shall submit quarterly reports to the Pharmacy Board, with an immediate report of any relapse of non-compliance with the conditions of the reinstatement.

l. Respondent shall participate in not less than bi-weekly (two times per month) counseling or psychotherapy with an addiction psychologist or psychiatrist approved in advance by the Board at respondent's expense. Prior to any reduction in the schedule of treatment, discontinuance of treatment or change in counseling or psychotherapy, respondent must obtain the approval of the Board. Respondent shall be responsible for ensuring that any psychologist or psychiatrist providing therapy to respondent shall provide quarterly reports regarding his progress in counseling directly to the Board.

m. Until further order of the Board, in the event that respondent has access to medications, respondent will ensure that a pharmacist in a supervisory position will take on the supervisory and daily employment monitoring responsibility described as follows as his Employment Monitor. Respondent shall notify an Employment Monitor at each and every facility at which he has access to medications that he has entered into this Order, and the Employment Monitor is to receive copies of this Order and all prior orders concerning respondent. Respondent shall ensure that the Employment Monitor is to be in contact with respondent on a daily basis at work.

n. Respondent shall provide in a timely manner any and all releases to any and all parties who are participating in the monitoring, treatment or other program as outlined in this Order, as may be required, so that all reports, records, and other pertinent information may be provided to, and utilized by the Board in connection with any investigation or proceedings regarding respondent's licensure. Respondent expressly waives any claim to privilege or confidentiality that he may have concerning the above-mentioned reports and disclosures.

o. Respondent shall give written notice to the Board, and provide a written copy of this Order to his employer, prior to beginning or changing any employment.

p. Respondent shall be subject to an order of automatic suspension of his license upon the Board's receipt of any information which the Board, in its sole discretion, deems reliable demonstrating that respondent has failed to comply with any of the conditions set forth in this Consent Order, including, but not limited to, report of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of alcohol or drug abuse.

q. Respondent shall have a right to apply for removal of the automatic suspension on ten (10) days notice to the Board and to the Attorney General. The Board may hold a hearing on that application before the full Board or before a committee of the Board. In the event a committee hears the application, its action shall be subject to ratification of the full Board at its next

scheduled meeting. In a hearing seeking removal of the automatic suspension, any confirmed positive urine shall be presumed valid.

r. Respondent shall not be a pharmacist-in-charge or a preceptor and shall be barred from being a permit holder either directly or indirectly through connection with any person related by blood or marriage.

s. Respondent shall not apply for further modifications of this Order for a minimum period of one year.

NEW JERSEY STATE BOARD OF PHARMACY

By: Pamela Allen, RPh
Pamela Allen
Board President

I have read the within Order and understand it. I agree to be bound by its terms and hereby consent to its being entered by the New Jersey Board of Pharmacy.

Thomas Clancy, RPh.
Thomas Clancy, R.P.

Consent as to term and entry:

Pamela Mandel, Esq.
Pamela Mandel, Esq.

I have read and understood the within Order and agree to comply with the terms which relate to the Professional Assistance Program (PAP).

L. E. Baxter
Louis E. Baxter, M.D., F.A.S.A.M.
Professional Assistance Program

- 8 -